UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA SPARTANBURG DIVISION

Julia Arias,)
Plaintiff,) C/A No.: 7:13-cv-02703-GRA
v. Henry Lewis Ferguson, Merchant's Distributors Inc.,	ORDER (Written Opinion))
Defendants.)))

This matter comes before this Court upon Defendants' Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(5) for insufficiency of service of process. ECF No. 8. Plaintiff responded in opposition to Defendants' Motion to Dismiss, ECF No. 29, and filed a Motion for Extension of Time for service under Fed. R. Civ. P. 4(m), ECF No. 30. Counsel for Plaintiff and Defendants presented oral arguments before this Court on November 25, 2013. ECF No. 31.

Upon consideration of the written Motions, memoranda submitted in connection therewith, and arguments of counsel, this Court denies Defendants' Motion to Dismiss and grants Plaintiff's Motion for Extension of Time. While Fed. R. Civ. P. 4(m) states that courts "must dismiss the action without prejudice" if "a defendant is not served within 120 days after the complaint is filed", this same provision provides that "if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period." This Court finds that Plaintiff has shown good cause to extend the period for service as Plaintiff made "reasonable and diligent efforts to effect service" within the 120-day period. *Clyburn v.*

Champagne, No. 6:10-1925-TMC, 2012 WL 4478971, at *4-5 (D.S.C. Sept. 28, 2012); Giacomo-Tano v. Levine, 199 F.3d 1327, at *1 (4th Cir. 1999) (unpublished) (per curiam). Therefore, Plaintiff shall have 21 days from the date of this Order to properly serve Defendants.

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Extension of Time is GRANTED.

IT IS SO ORDERED.

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G. Ross Anderson, Jr. Senior United States District Judge

November <u>26</u>, 2013 Anderson, South Carolina